



Paper No. 2

MEDTRONIC AVE INC
IP LEGAL
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COPY MAILED

In re Application of :
CHORNENKY et al. : DECISION
Application No. 10/010,911 :
Filed: November 20, 2001 :
Attorney Docket No. P775 CON 3 :

MAY 01 2002**OFFICE OF PETITIONS**

The above-identified application is before this office due to an accompanying statement which is being construed as a request due to a designated postal emergency within the meaning of 35 USC 21(a) and 37 CFR 1.6(e) to accord this application a filing date of November 20, 2001.

The request is granted.

The statement is made by Christine Aceves who asserts she originally deposited the instant application papers by the Express Mail to Addressee Service of the USPS under 37 CFR 1.10 on November 20, 2001. The correspondence was addressed to the USPTO at Washington D.C. 20231, but was returned to the sender on November 29, 2001, as the USPS was not accepting Express Mail for zip codes inclusive of the USPTO address. The showing includes a copy of the original Express Mail Label No. EJ74474317US showing a "date-in" of November 20, 2001, and a USPS cancellation stamp indicating the correspondence was returned to the sender on November 29, 2001. Inspection of the instant application papers reveals the papers were initially accompanied by a transmittal letter bearing Express Mail Label No. EJ74474317US, the same number as on the label in question.

On Friday, November 16, 2001, the Chief Operating Officer and Executive Vice President of the United States Postal Service (USPS) issued a memorandum temporarily and immediately suspending Express Mail service to Washington, D.C., ZIP Codes 202xx through 205xx (e.g., 20231). The USPTO is designating this interruption in the Express Mail service of the USPS as a postal service interruption within the meaning of 35 U.S.C. 21(a) and 37 CFR 1.6(e). On Thursday, November 29, 2001, the USPS indicated that this suspension of Express Mail service has been terminated.

The USPTO published a notice in the Official Gazette on October 9, 2001, that provides guidance in the situation in which a post office refuses to accept the deposit of mail for delivery by Express Mail service. See United States Postal Service Interruption and Emergency, 1251 Off. Gaz. Pat. Office 55 (Oct. 9, 2001). This notice was also posted on the USPTO's Internet Web site (<http://www.uspto.gov/september11/uspsnotice01.htm>). The guidance set forth in that notice also applies if a post office refuses to accept the deposit of correspondence for delivery by Express Mail due to the suspension of the USPS's Express Mail service to Washington, D.C., ZIP Code 20231, as well as the situation in which correspondence is returned as undeliverable due to this suspension.

Since the circumstances of this application clearly fall within the designated postal interruption, and the USPTO guidelines for seeking relief from the postal interruption have been met, this application is being accorded a filing date of November 20, 2001, the date the correspondence was entrusted to the USPS as Express Mail.

This application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of November 20, 2001, instead of the currently accorded date of December 4, 2001.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-1820.


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